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RUEHNR/AMEMBASSY NAIROBI 0945
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TAGS: [PHUM](#) [PGOV](#) [RW](#)
SUBJECT: TWO ARRESTED GENERALS RELEASED ON BAIL

REF: KIGALI 743

Classified By: Ambassador Michael R. Arietti, reason 1.4 (B/D)

¶1. (SBU) Following two same-day sessions of a military court in Kigali, the presiding judge released Generals Frank Rusegara and Sam Kanyemera Kaka on bail on August 17. The court scheduled their next court session set for September 6.

Both men stand accused of interfering with police officers in the performance of their duties, as the officers attempted to arrest a businessman sought in connection with loss of life at a construction site accident (reftel). Kaka, retired from the military, is a member of parliament from the ruling RPF; Rusegara is the commandant for a military training school. Embassy FSN attended the court session, which was conducted in Kinyarwanda, and reported in both the French and English media.

¶2. (C) The two men will offer substantive and procedural defenses at the next court hearings, retired General Kaka in particular. Polchief spoke with Kaka's defense counsel on August 20, who confirmed that Kaka will argue that 1) he took no action against the police officers or in support of the businessman; 2) his immunity as a member of parliament was improperly lifted; and 3) he should not be tried in a military court, as he is now a civilian. The counsel acknowledged that under Rwandan law, civilians acting in concert with members of the military can be prosecuted (and frequently are) in military court. However, the counsel said that Kaka's position will be that, while present at the same well-attended funeral as General Rusegara and the businessmen when the police officers appeared, he had no prior discussions or agreement with Rusegara, and cannot be considered to have acted in concert with him. According to the attorney, Rusegara's counsel will equally argue that Rusegara took no action toward the officers or in support of the businessman, and simply attended the funeral as an invited guest.

¶3. (C) Also on August 20, Acting Head of Military Prosecutions, Captain Kayijuka Ngabo described in depth to polchief the attempt by policemen to arrest the businessman at the funeral, which occurred as a crowd of mourners (including the businessman) left a reception area. He noted that the testimony of witnesses was somewhat "conflicting." For example, some witnesses said the generals pushed the policemen, some said the generals pulled at the policemen, others said they verbally abused the policemen, and still others said the generals did nothing. Ngabo noted that many guests at the funeral were upset by the appearance of the police, and afterwards many either refused to give statements, or, dismissively, said the two generals did nothing at all. "We will let the court decide," said Ngabo.

He did note that General Rusegara had admitted verbally reproaching the policemen, but denied any physical act on his part.

14. (C) Ngabo believed that parliamentary officials had properly lifted MP Kaka's immunity, and that Kaka's effort to separate himself from Rusegara, as a civilian not subject to military justice, if successful would only "land him in a civilian court" on the same charge. He noted that the offense, interfering with officers attempting to make an arrest, was a misdemeanor ("delit"), with punishment set at three months to two years. "This is not a terribly serious offense," he said, "but we will prosecute in circumstances like this -- even generals cannot interfere with officers of the law."

ARIETTI